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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,969	02/04/2004	Ligia A. Rivera	659/2240	3833

7590

05/20/2005

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EXAMINER
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THOMAS, ALEXANDER S

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/771,969	Applicant(s) RIVERA ET AL.	
	Examiner Alexander Thomas	Art Unit 1772	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 81-102, 104, 106, 107, 109 and 111-118 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 81-102, 104, 106, 107, 109 and 111-118 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/9/05</u> . | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 31, 2005 has been entered.

### ***Terminal Disclaimer***

2. The terminal disclaimer of filed 3/31/05 is not proper. An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c).

### ***Double Patenting***

3. Claims 81-87, 101, 102, 104 and 111-114 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 6,649,262. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art to adjust the amount of salt in the solution in order to provide the desired cleaning properties for a particular end use. It would also have been obvious to one of ordinary skill in the art to adjust the size of the roll to depending on the particular end use of the product.

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4. Claims 90-98, 106, 107, 109 and 115-118 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 6,649,262 in view of Nissing et al ('834). Nissing et al disclose the desirability of providing transverse grooves in wet wipe material to aid in cleaning surfaces; see column 1, lines 21-33 and Figure 5b. It would have been obvious to one of ordinary skill in the art to provide grooves in the wet wipe of the primary reference in order to increase its ability to clean surfaces. It would also have been obvious to one of ordinary skill in the art to adjust the size of the roll to depending on the particular end use of the product.

5. Claims 81-87, 101, 102, 104 and 111-114 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 41 of copending Application No. 10/644342. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art to adjust the amount of salt in the solution in order to provide the desired cleaning properties for a particular end use. It would also have been obvious to one of ordinary skill in the art to adjust the size of the roll to depending on the particular end use of the product.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 90-98, 106, 107, 109 and 115-118 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 41 of copending Application No. 10/644342 in view of Nissing et al ('834).

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Nissing et al disclose the desirability of providing transverse grooves in wet wipe material to aid in cleaning surfaces; see column 1, lines 21-33 and Figure 5b. It would have been obvious to one of ordinary skill in the art to provide grooves in the wet wipe of the primary reference in order to increase its ability to clean surfaces. It would also have been obvious to one of ordinary skill in the art to adjust the size of the roll to depending on the particular end use of the product (claims 90 and 91).

This is a provisional obviousness-type double patenting rejection.

***Claim Rejections - 35 USC § 112***

7. Claims 81-102, 104, 106, 107, 109 and 111-118 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no original disclosure supporting the following claimed ranges of salt concentration:

“more than 1 weight percent” (claims 81 and 92);

“at least about 1.5 weight percent” (claims 101 and 106);

“at least about 2 weight percent” (claims 102 and 107); and

“at least about 4 weight percent” (claims 104 and 109).

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The original disclosure is directed to about 1 percent to about 5 percent, 1.5 percent, 2 to 4 percent, about 2 percent, and about 4 percent of salt as disclosed in 6,444,214.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 81-87, 101, 102, 104 and 111-114 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' acknowledged state of the art in view of Taylor et al 6,451,748. The primary reference discloses the invention substantially as claimed, namely a roll of wet wipes with perforated sheets; see page 1, lines 24-28 of the instant specification. The secondary reference discloses the desirability of the use of a salt containing composition on wet wipes; see column 3, lines 53-58 and Example 17. It would have been obvious to one of ordinary skill in the art to use the antibacterial composition of the secondary reference on the article of the primary reference to provide a wet wipe with enhanced antibacterial effectiveness. Regarding the size of the roll, it would have been obvious to one of ordinary skill in the art to adjust the size of the wet wipes to accommodate a particular end use of the wipe. Concerning applicants' arguments with respect to the shape of the roll, it is generally recognized that a change in size is within the level of ordinary skill in the art. With respect to combining the references, there is clear motivation to combine the secondary reference with the

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primary reference, namely the disclosure in the secondary reference of enhanced antibacterial effectiveness of their wet wipe composition.

10. Claims 90-98 and 106, 107, 109 and 115-118 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' acknowledged state of the art in view of Taylor et al as applied to claims 81-87 and 101-105 above, and further in view of Nissing et al ('834). Nissing et al disclose the desirability of providing transverse grooves in wet wipe material to aid in cleaning surfaces; see column 1, lines 21-33 and Figure 5b. It would have been obvious to one of ordinary skill in the art to provide grooves in the wet wipe of the prior art article in order to increase its ability to clean surfaces. Applicant's arguments have been considered but are not deemed persuasive for the same reasons as set forth above in paragraph 7. The primary reference is relied upon to show a basic roll of wet wipes, Taylor et al is relied upon to teach a salt containing wet wipe composition and Nissing et al is relied upon to show the use of grooves in wipes.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Alexander S. Thomas". The signature is fluid and cursive, with the first name "Alexander" being more prominent than the last name "Thomas".

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ALEXANDER S. THOMAS  
PRIMARY EXAMINER